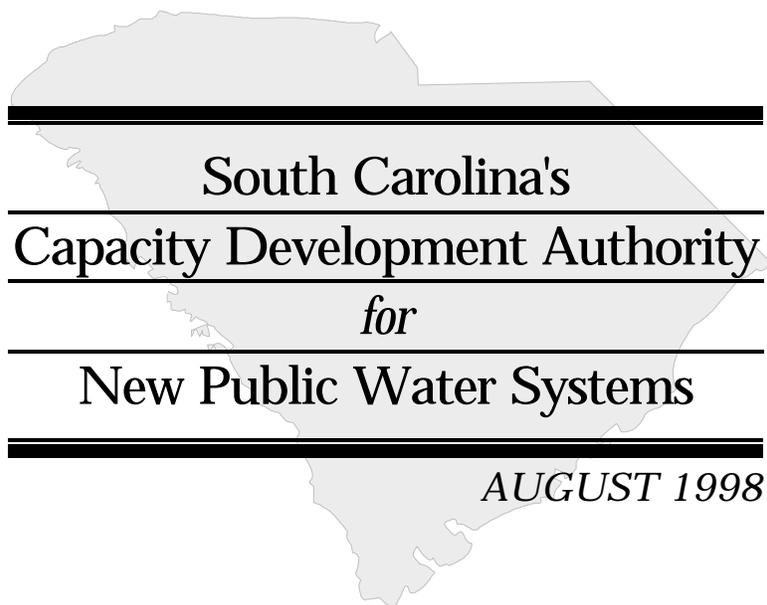


CAPACITY
DEVELOPMENT
for financial, technical & managerial viability



South Carolina's
Capacity Development Authority
for
New Public Water Systems
AUGUST 1998

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Introduction

In 1996, the federal Safe Drinking Water Act (SDWA) was amended to include a new provision called “Capacity Development”. Section 1420(a) of the federal SDWA requires that a State must obtain the legal authority or other means to ensure that all new community water systems and new nontransient, noncommunity water systems commencing operation after October 1, 1999, demonstrate technical, managerial and financial capacity, or lose a portion (20%) of the monies allotted for the State’s drinking water revolving loan fund.

The purpose of this document is to provide EPA with information which demonstrates that South Carolina has the legal authority and has established a program, to ensure that all new community water systems and new nontransient, noncommunity water systems demonstrate technical, managerial and financial capacity to comply with the SDWA.

Authority

South Carolina’s authority and ability to ensure that new community and new nontransient, noncommunity water systems demonstrate the technical, managerial and financial capacity to comply with the SDWA revolves around the construction permitting program administered by the State’s Department of Health and Environmental Control (DHEC or Department).

Section 44-55-40(a) of the State SDWA requires that before a new public water system can be constructed, an application for a permit to construct must be made to, and a permit to construct obtained from, DHEC (refer to page 2 of Appendix A).

Section 44-55-120(D) of the State SDWA provides DHEC the authority to deny a construction permit to any new public water system which is unable to demonstrate viability (i.e. capacity) to comply with the SDWA or where connection to an existing viable water system is feasible (refer to page 8 of Appendix A).

A “viable water system” is defined in Section R.61-58(B) of the State Primary Drinking Water Regulations (SPDWR) as follows:

“Viable Water System” means a water system which is self sustaining and has the commitment and the financial, managerial and technical capability to consistently comply with the State Safe Drinking Water Act (44-55-10 et.seq.) and these regulations.

DHEC has for more than 30 years reviewed permit applications to ensure that new water systems have the technical capacity to comply with the SDWA. Regulation 61-58.1 outlines the procedures that an applicant must follow for obtaining a permit to construct a water system (refer to pages 20 through 29 of Appendix B). Regulations 61-58.2, .3 and .4 prescribe minimum design standards for the construction of groundwater and surface water sources, treatment facilities, storage facilities, and distribution systems. The purpose for prescribing minimum design standards is to help ensure that the new public water supply facilities (sources,

treatment, storage and distribution piping) comply with the water quality standards and treatment technique standards specified in Regulations 61-58.5, .10 and .11 (refer to Appendix B).

On July 28, 1995, the SPDWR were amended to require the applicant for a new public water system to demonstrate to the satisfaction of the Department that the new system will be a viable water system. Section 61-58.1(B)(4) of the SPDWR outlines the required documentation that must be submitted with the application for a permit to construct (refer to page 20 of Appendix B). This section of the SPDWR also requires the applicant to evaluate the feasibility of connecting to an existing viable water system.

On June 26, 1998, the SPDWR were amended to define the contents of a “management plan”, and a “financial plan”. The definition for each of these plans can be found in Section R.61-58(B) of Appendix B.

Section 61-58.1(B)(10)(c) of the SPDWR specifies that a permit to construct may be denied when the owner of a proposed new system fails to prove to the Department's satisfaction that the system will be a "viable water system" as defined in R.61-58(B).

This authority is in effect and is being implemented as part of DHEC’s permitting program.

Control Points

DHEC has two control points in ensuring that new community and new nontransient, noncommunity water systems demonstrate the technical, managerial and financial capacity to comply with the SDWA. The first control point is the application for a permit to construct a new water system. DHEC has staff that reviews construction permit applications for compliance with the procedures outlined in Regulation 61-58.1 and the design standards specified in Regulations 61-58.2, .3 and .4. Staff engineers are responsible for reviewing permit applications. A staff accountant will assist the engineers, as needed, in reviewing the financial capacity of a proposed system.

The staff engineer will first review the information provided by the applicant to determine if it is feasible to connect to an existing viable water system. The following criteria will be used to determine feasibility:

1. Is the existing system willing to serve the project;
2. Is the existing system able to serve the project; and,
3. Is the cost of connecting to the existing system less than that of constructing and operating a new water system?

If the answer is “yes” to all of the above, the Department will consider it feasible to connect to the existing system and will deny the applicant a permit to construct a new water system.

If it is not feasible to connect to an existing viable water system, the information provided in the application (engineering design, management plan, financial plan, etc.) will be then evaluated to determine the viability of the proposed water system.

The Department will also evaluate the viability of any new water system which proposes to connect to an existing water system, but plans to provide additional treatment or sell the water.

The second control point is the final construction approval process. Section 44-55-40(c) of the State SDWA requires that once construction has been completed, arrangements must be made for a final inspection and approval before operation, as prescribed by regulations (refer to page 2 of Appendix A). Section 61-58.1(K) of the SPDWR outlines the requirements for obtaining approval to place newly-constructed facilities into operation (refer to page 35 and 36 of Appendix B).

Evaluating Program Success

The success of the program will be based on the success of the new water systems to maintain compliance with the SDWA. DHEC plans to develop a computer program which cross references the permitting data base to other data bases (sanitary survey, water quality, etc.) for the purpose of tracking compliance of all new water systems.

Attorney General's Statement for the Drinking Water State Revolving Fund (DWSRF) Program

The South Carolina's Attorney General's statement included with each DWSRF capitalization grant application will include the following statement:

The State has the legal authority to ensure that all new community water systems and new nontransient, noncommunity water systems demonstrate technical, managerial and financial capacity to comply with the State Safe Drinking Water Act and the State Primary Drinking Water Regulations. DHEC has the authority to amend the State Primary Drinking Water Regulations to include the requirements of new National Primary Drinking Water Regulations.

Refer to Appendix C for a copy of the Attorney General's statement which was submitted as part of South Carolina's FY 1998 capitalization grant application.

APPENDIX A
STATE SAFE DRINKING
WATER ACT

APPENDIX B
STATE PRIMARY DRINKING
WATER REGULATIONS